

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Mary Daman,
Petitioner-Appellant,

v.

City of Cedar Rapids Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-101-0327
Parcel No. 14284-82005-00000

On March 16, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Mary Daman requested her appeal be considered without hearing and submitted evidence in support of her petition. She was self-represented. The Board of Review designated City Attorney James H. Flitz as its legal representative. The Board of Review submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Mary Daman, owner of property located at 45 18th Avenue, SW, Cedar Rapids, Iowa, appeals from the City of Cedar Rapids Board of Review decision reassessing her property. According to the property record card, the subject property consists of a two-story, frame dwelling having 1508 square feet of living area, no basement, a 40 square-foot enclosed porch, and a 120 square-foot patio built in 1894. The property has a 396 square-foot detached garage built in 1989 and is situated on 0.115 acres. The improvements were extensively damaged in the 2008 Cedar Rapids floods.

The real estate was classified as residential on the January 1, 2010, assessment and valued at \$41,354, representing the \$8,800 in land value and \$32,554 in improvement value. This was an increase from the previous year's assessment.

Daman protested to the Board of Review on the ground that there was an error in the 2010 assessment under Iowa Code 441.37(1)(d) because the property was fully repaired after the flood and has been habitable since July 2009. She claimed the 2008 pre-flood value of \$72,842, allocated \$17,600 to land value and \$55,242 to dwelling value, was the actual value and a fair assessment of the property as of January 1, 2010.¹ The Board of Review denied the protest.

Daman then appealed to this Board. She reasserted her request for the 2008 pre-flood assessment to be restored. She submitted a Letter of Compliance from Tim Manz, Interim Code Enforcement Manager for the City of Cedar Rapids, dated July 20, 2009, indicating her property had been inspected for flood recovery and it was determined to be suitable to occupy.

The assessor's office provided a statement indicating the repairs were 100% complete as of a March 2010 inspection. Repairs to the dwelling included new main level windows, one new second floor window, furnace, electrical, insulation, sub-flooring, main floor ceiling and wall drywall, new carpet, wood laminate flooring, tile, kitchen cabinets, countertops, and bathroom fixtures. These repairs resulted in an adjustment to the condition from below-normal condition with 45% physical depreciation to above-normal condition with 35% physical depreciation.

The assessor's statement explained the property values in Daman's area of flooding were adjusted by a 50% reduction for economic obsolescence in the cost approach to value. It reports that only one other dwelling was rebuilt in Daman's area after the flood; the other properties were either abandoned or demolished. The assessor provided maps showing the areas of residential economic valuation losses from the 2008 flood ranging from -10% to -50% which were determined by market

¹ After the flood but before the repairs were completed, the 2009 assessed value was reduced to \$23,481, allocated \$880 to land and \$14,681 to dwelling.

trends and comparable sale prices. Also provided was a map showing the course of the river, the preliminary flood wall, the 100-year flood area, the 500-year flood area, and the actual 2008 flood inundation area.

Reviewing all the evidence, we find that substantial evidence is lacking to support Daman's claim that there was an error in her assessment as of January 1, 2010. We recognize the extensive dwelling repairs after the flood improved the dwelling; however, its location in a flood area of largely abandoned and demolished homes resulted in an additional 50% reduction to accurately reflect the fair market value as of January 1, 2010.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or

comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).

The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

While we recognize the post-flood repairs to Daman's dwelling, the assessor's market trends and comparable sales analysis demonstrated its location in a flood area which diminished its fair market value by 50%.

Viewing the evidence as a whole, we determine the preponderance of the evidence does not support Daman's claim that the January 1, 2010, assessment did not reflect the fair market value of her property at that time. Therefore, we affirm the Daman property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2010, is \$41,354, representing \$8800 in land value and \$32,554 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the City of Cedar Rapids Board of Review is affirmed.

Dated this 29 day of April 2011.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Richard Stradley
Richard Stradley, Board Member

Karen Oberman
Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>4-29</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>